

SBP:jbn



#6 ~~DAC~~ #

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of ) **RECEIVED**  
 )  
 ARITA ) **MAY 06 2003**  
 )  
 Serial No. 09/871,149 ) **OFFICE OF PETITIONS**  
 ) Examiner: Unknown  
 )  
 Filed: June 1, 2001 ) Group Art Unit: Unknown  
 )  
 For: System And Method For Creating A )  
 Purchase Order For Combination )  
 Items, And Storage Media In Which )  
 A Program For Creating Information )  
 On Combination Items Is Recorded )

PETITION FOR REVIVAL OF AN APPLICATION ABANDONED UNAVOIDABLY  
DUE TO APPARENT PATENT OFFICE AND/OR MAIL ERROR  
UNDER 37 C.F.R. § 1.137(a)

Attention: Office of Petitions  
Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

Dear Sir:

The above-identified application became abandoned for failure to file a timely and proper response to a Notice allegedly mailed on July 31, 2001. Applicant most respectfully petitions for prompt revival of this application.

The following items accompany this petition:

1. A petition fee (small entity) in the amount of \$ 55.00 (37 C.F.R. § 1.17(l)).

05/05/2003 SLUANG1 00000010 09871149

01 FC:2452

55.00 OP

2. A proposed response to the above-noted Notice in the form of a RESPONSE TO NOTICE TO FILE MISSING PARTS.

3. An adequate showing of the cause of unavoidable delay is set forth below under the section entitled Statement of Reasons for Delay in Filing Response.

It is most sincerely and respectfully submitted that the entire period of delay from the due date for replying to the Office Action until the filing of this grantable petition was **unavoidable due to mailing error by the Patent Office, the U.S. Postal System and/or the Hogan & Hartson mail center.**

**Statement of Reasons for Delay in Filing Response**

**Non-Receipt of Notice**

As shown in the attached docket printout from Hogan & Hartson's docketing department, the Hogan & Hartson docketing department **never received** the identified Notice to File Missing Parts. See Attachment A.

Hogan & Hartson has detailed procedures for handling incoming mail from the Patent Office. Mail enters Hogan & Hartson's central mail room and is then forwarded to the Patent Docketing department (which includes a team of about 2 individuals that enter docket items into a

sophisticated docket management system [see PC MASTERS printout in Attachment A<sup>1</sup>] and that route items accordingly via an interoffice mail department. Mail received by the Patent Docketing department is promptly entered into the management system and then forwarded to the corresponding attorney. In this case, there is **no record of receipt** of such a Notice. Moreover, Hogan & Hartson and the undersigned attorney never received such a Notice.<sup>2</sup>

Discovery of the Status

The undersigned discovered the abandonment after conducting a standard status check filed on December 26, 2002 after the Patent Office's response provided by way of the Notice of Abandonment of April 14, 2003.

Reasons For Abandonment / No Further Problems

In view of the procedures implemented at Hogan & Hartson, there is some likelihood that this Notice was inadvertently not mailed by the Patent Office. There is also some likelihood that this Notice was inadvertently mis-handled by the Hogan & Hartson mail center and not properly routed to the docketing department. Hogan & Hartson is a large firm with multiple thousands of employees and more than 18 offices world wide. Accordingly, as in the Patent Office, the

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<sup>1</sup> Attachment A includes a cover sheet from the Hogan & Hartson docketing department. The message statement regarding matter 82084-0004 relates to a different matter in which the Patent Office recently inadvertently delivered the mail to the wrong address.

<sup>2</sup> The undersigned submitted the Declaration on September 28, 2003. Because no Notice was received, it was believed that the Patent Office decided not to issue a Notice to File Missing Parts after this submission. A copy of the Notice was requested and received on April 28, 2003. See Attachment B.

Hogan & Hartson mail room processes a large volume of mail that may, in some instances, be mishandled.

In view of, among other things, the strong docketing systems at Rothwell, Figg, Ernst & Manbeck and the many years of operation as a strong mid-sized Patent Boutique, this client matter recently followed the undersigned to Rothwell, Figg, Ernst & Manbeck. Accordingly, any docketing issues at Hogan & Hartson are no longer applicable.

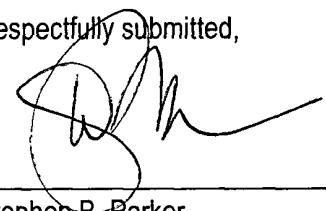
Request for Immediate Revival And Prompt Examination

The undersigned requests that the Patent Office immediately reopen prosecution and send this case to the Examiner for examination. In addition, the undersigned respectfully requests that the Examiner contact the undersigned to arrange an interview to discuss this case in the interest of expediting examination. The undersigned understands that pendency in this class is currently very long, such that no time should be lost due to the present abandonment. However, it is sincerely requested that this application be handled as promptly as possible. Notably, in a recent Patent Office Business Method Partnership Meeting held at the Patent Office, the Patent Office indicated that first Office Actions are usually not received for **well over two years** in this class. Recently, the Patent Office even confirmed that this is now often **well over three years** until the first Office Action in this class.

In the event that any fees are due in connection with this document, please charge our  
Deposit Account No. 02-2135.

Respectfully submitted,

By \_\_\_\_\_

  
Stephen B. Parker  
Attorney for Applicants  
Registration No. 36,631  
ROTHWELL, FIGG, ERNST & MANBECK, p.c.  
Suite 800, 1425 K Street, N.W.  
Washington, D.C. 20005  
Telephone: (202)783-6040

Date: May 2, 2003

# **ATTACHMENT A**



# HOGAN & HARTSON L.L.P.

COLUMBIA SQUARE  
555 THIRTEENTH STREET, N.W.  
WASHINGTON, DC 20004-1109

Tel.: (202) 637-5600  
Fax: (202) 637-5910

BERLIN  
BRUSSELS  
LONDON  
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MCLEAN, VA  
MIAMI, FL  
DENVER, CO  
BOULDER, CO  
COLORADO SPRINGS, CO  
LOS ANGELES, CA

## IMPORTANT NOTICE TELECOPY/FACSIMILE COVER LETTER

TO: Stephen Parker  
Rothwell, Figg, Ernst & Manbeck

DATE: 4/29/03

FROM: Sharlene Sampson

TIME: 11:54 AM

TOTAL NO. OF PAGES, INCLUDING COVER: 3

The attached information is CONFIDENTIAL and is intended only for the use of the addressee(s) named above. If the reader of this message is not the intended recipient(s) or the employee or agent responsible for delivering the message to the intended recipient(s), please note that any dissemination, distribution or copying of this communication is strictly prohibited. Anyone who receives this communication in error should notify us immediately by telephone and return the original message to us at the above address via the U.S. Mail.

### MESSAGE:

Per our conversation attached is the print out from PC Masters for 82084-0002. The notice of allowance for 82084-0004 & the original print out to follow by regular mail.

### FOR INTERNAL PURPOSES ONLY

TELECOPY/FAX NUMBER: (202) 783-6031  
CLIENT NUMBER: 76005-0630  
ATTORNEY BILLING NUMBER: 6005  
CONFIRMATION NUMBER: (202) 626-3525

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MAY 06 2003

OFFICE OF PETITIONS

4/29/2003

## Patent Information Print

Docket No	82084-00002	Party #4
Country	United States	Party #5
Case Type	Regular	Party #6
Relation Type	Original Filing	Party #7
Filing Type	National	Party #8
Attorney	Celine Jimenez Crowson	Ag Ref No
Agent		Code #2
Client\Division	Shimizu Patent Attorneys Off	Code #3
Current Owner		Code #4
Assoc. Atty	Ajit J. Vaidya	Code #5
Status	Inactive	Code #6
First Filing Dt	01JE2000	Code #7
Sub Stat	Transferred	Code #8
Sub Stat Dt	07NO2002	Text #1
Parent Country	Japan	Date #1
Parent Filing Dt	01JE2000	Date #2
Parent No	2000-166567	Date #2
Parent Grant Dt		Text #3
Total Claims		Date #3
Ind. Claims		Text #4
Application No	09/871149	Date #4
Application Dt	01JE2001	Text #5
Patent No		Text #6
Grant Dt		Text #7
Publication No		Text #8
Publication Dt		Text #9
Assigned		String
Expiration Dt		Verified
Conv Type		Customer
Tax Base Dt		Create Dt
Next Tax Dt		Update Dt
Oper Grp		Update Tm
Party #1		Update User
Party #2		Update Type
Party #3		SYS

## \*\*Actions\*\*

Action	Info Disc1. Statement	Resp Atty #1
Act Due Date	01SE2001	Resp Atty #2
Taken Dt		Date Range Day
DeadLn Dt		Date Range Month
Comp Dt	01SE2001	Date Range Year
Action	Status New	Resp Atty #1
Act Due Date	01AU2002	Resp Atty #2
Taken Dt		Date Range Day
DeadLn Dt		Date Range Month
Comp Dt	01AU2002	Date Range Year
Action	Transferred Out	Resp Atty #1
Act Due Date		Resp Atty #2
Taken Dt		Date Range Day
DeadLn Dt		Date Range Month
Comp Dt	07NO2002	Date Range Year

## Act Notes

Email from clt w/instr to transfer cases to SBP

Action	Foreign filing completed	Resp Atty #1
Act Due Date		Resp Atty #2
Taken Dt		Date Range Day
DeadLn Dt		Date Range Month
Comp Dt		Date Range Year

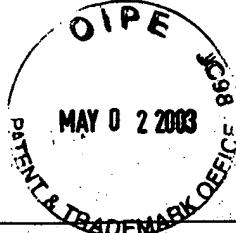
## \*\*Inventors\*\*

Inv Name	MASAHIRO ARITA	Inv Cd 1
Assigned		Inv Cd 2
Text #2		Real #1
Inventor		Real #2
Inv Dt		

## \*\*Title\*\*

## Title

SYSTEM AND METHOD FOR CREATING A PURCHASE  
 ORDER FOR COMBINATION ITEMS, AND STORAGE  
 MEDIA IN WHICH A PROGRAM FOR CREATING  
 INFORMATION ON COMBINATION ITEMS IS RECORDED



Commissioner for Patents  
Washington, DC 20231  
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/871,149	06/01/2001	Masahiro Arita	82084-002

**CONFIRMATION NO. 7431**  
**ABANDONMENT/TERMINATION**  
**LETTER**



\*OC00000009830643\*

6449  
ROTHWELL, FIGG, ERNST & MANBECK, P.C.  
1425 K STREET, N.W.  
SUITE 800  
WASHINGTON, DC 20005

Date Mailed: 04/14/2003

**NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)**

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 07/31/2001.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to "Office of Petitions" at (703) 305-9282.

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

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MAY 06 2003

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